



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Nancy A. Nord
 Commissioner Thomas H. Moore

ITEM:

Interim Delegation of Authority in the Absence of a Quorum
(Briefing Package dated January 10, 2007, OS No. 4581)

DECISION:

The Commission voted unanimously (2-0) to approve the Interim Delegation of Authority as drafted. After January 14, 2007, the Commission does not have a quorum to transact business under section 4(d) of the Consumer Product Safety Act ("CPSA"). The Interim Delegation of Authority delegates specified powers and functions, beginning on January 15, 2007, to particular staff. The delegation would automatically expire upon the Commission having a quorum. The delegation provides for notification to the Commission of any actions taken pursuant to it and allows particular actions unless, in certain specified instances, there is objection by an individual Commissioner. Under section 27(b)(9) of the CPSA, the Commission is authorized to delegate "any of its functions or powers, other than the power to issue subpoenas under paragraph 3 [section 27(b)(3)] to any officer or employee of the Commission."

Commissioner Moore included a comment with his vote - "Although I am approving the delegation as drafted, it is questionable whether the Commission has the legal authority to make the delegation in 6(a)."

For the Commission:

A handwritten signature in black ink, appearing to read "Todd A. Stevenson".

Todd A. Stevenson
Secretary

* Ballot vote due January 12, 2007

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INTERIM DELEGATION OF AUTHORITY

1. PURPOSE.

The purpose of this order is to delegate various powers and functions of the Consumer Product Safety Commission ("Commission") during the interim period commencing on January 15, 2007 should the Commission be without a quorum beginning on that date.

2. AUTHORITY.

- a. Under the Consumer Product Safety Act ("CPSA"), "two members of [the Commission] shall constitute a quorum for the six month period beginning on the date of the vacancy which caused the number of Commission members to decline to two." 15 U.S.C. § 2053(d). Chairman Hal Stratton resigned effective close of business on July 14, 2006, creating a vacancy commencing on July 15, 2006. Accordingly, should a third commissioner not be appointed by January 15, 2007, the Commission will be without a quorum commencing on that date until such time as a third Commissioner is appointed.
- b. Under 15 U.S.C. § 2076(b)(9), the Commission is empowered "to delegate any of its functions or powers, other than the power to issue subpoenas under paragraph (3) [15 U.S.C. § 2076(b)(3)] to any officer or employee of the Commission."

11/16/07
 PRODUCTS IDENTIFIED + MFRIDS
 SUBMITTED BY: PETITION
 SUBMITTING ADMIN. PROCS
 WITH REVISIONS REQUIRED

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3. EFFECTIVE DATE/DURATION.

This order becomes effective January 15, 2007, and expires thereafter immediately upon the Commission having a quorum to transact business under 15 U.S.C. § 2053(d).

4. NOTIFICATION.

Unless a shorter period is agreed to by each Commissioner, both Commissioners shall be notified at least five business days before any action to be taken under this order. The notification shall be in writing and shall describe the action proposed and the approximate date it will be taken.

5. CONTINUING DELEGATIONS.

This order does not diminish any delegation previously made by the Commission.

6. DELEGATION OF AUTHORITY.

Pursuant to 15 U.S.C. § 2076(b)(9), and subject to paragraph 4 of this order and the specific limitations set forth below, the Commission hereby makes the following delegations:

- a. The Acting Chairman is delegated authority to make appointments and removals in accordance with 15 U.S.C. § 2053(g)(1) unless there is objection to any such appointment or removal by the remaining Commissioner within five business days of receiving notice.
- b. The General Counsel is delegated authority to: 1) issue Federal Register notices constituting advance notice of proposed rulemaking, notice of proposed rulemaking, and/or final rules or other implementing Federal Register notices, provided that any such notice shall be in strict accordance with a vote of the

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Commission to take such action having occurred prior to the loss of quorum; 2) to issue Federal Register notices of meetings to be held by Commission staff and other routine Federal Register notices; 3) to issue Federal Register notices of requests for collection of information pursuant to the Paperwork Reduction Act; 4) to prepare and issue the Commission's semi-annual regulatory agenda and regulatory plan; 5) to refer civil penalty actions to the Department of Justice, unless either Commissioner objects to such referral within five business days after notice pursuant to paragraph 4 of this order.

- c. The Executive Director is delegated authority to issue annual reports and any other reports required by law.
- d. The Assistant Executive Director for Compliance and Field Operations ("AEDCFO") is delegated authority to act for the Commission under 16 C.F.R. § 1118.20 with respect to staff allegations that [REDACTED] failed to comply with the reporting requirements of 15 U.S.C. § 2064(b), and thereby violated 15 U.S.C. § 2068(a)(4). Before exercising the authority set forth in 16 C.F.R. § 1118.20 the AEDCFO shall obtain the concurrence of the General Counsel. This delegation shall expire on February 15, 2007.
- e. The Assistant Executive Director for Compliance and Field Operations ("AEDCFO") is delegated authority to act for the Commission under 16 C.F.R. § 1118.20 with respect to staff allegations that [REDACTED] [REDACTED] failed to comply with the reporting requirements of 15 U.S.C. § 2064(b), and thereby violated 15 U.S.C. § 2068(a)(4). Before exercising the authority set

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forth in 16 C.F.R. § 1118.20 the AEDCFO shall obtain the concurrence of the General Counsel. This delegation shall expire on March 1, 2007.

- f. The Assistant Executive Director for Compliance and Field Operations ("AEDCFO") is delegated authority to act for the Commission under 16 C.F.R. § 1118.20 with respect to staff allegations that [REDACTED]

[REDACTED] failed to comply with the reporting requirements of 15 U.S.C. § 2064(b), and thereby violated 15 U.S.C. § 2068(a)(4). Before exercising the authority set forth in 16 C.F.R. § 1118.20 the AEDCFO shall obtain the concurrence of the General Counsel. This delegation shall expire on April 1, 2007.

- g. The Assistant Executive Director for Compliance and Field Operations ("AEDCFO") is delegated authority to act for the Commission under 16 C.F.R. § 1118.20 with respect to staff allegations that any person or firm violated 15 U.S.C. § 2068 or 15 U.S.C. § 1263, where the total amount of the settlement reached involves no more than \$50,000. The authority set forth in 16 C.F.R. § 1118.20 with respect to such settlements shall be exercised unless either Commissioner objects within five business days after notice pursuant to paragraph 4 of this order. Before exercising the authority the AEDCFO shall obtain the concurrence of the General Counsel.

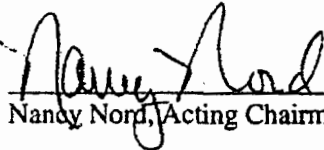
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Amend 1/16/07

7. REDELEGATION OF AUTHORITY.

These powers and functions may be redelegated.

So ordered this 12th day of January, 2007.



Nancy Nord, Acting Chairman



Thomas Moore, Commissioner